

Serial No. 10/082,415

column), "Furthermore, the transfer passageway is now defined as connecting the measuring segment between the vents to atmosphere, which is not used in Shartle's device."

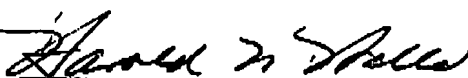
It seems likely that the Examiner overlooked this distinction. In his final office action of May 6, he suggested a claim revision to better describe Figure 2. That proposed revision was adopted. However, it omitted the location of the entrance of the transfer passageway to the segment, which previously had been in the claim. This was added in the proposed amendment of July 5. It was not new and the intention was the same as before. As remarked on page 10 (bottom right column), Shartle had no transfer capillary because the measuring chamber (140a and 140b) terminates at the mixing chamber (150). In the Applicants claims, the transfer passageway is defined as connecting the measuring segment from between the vents to atmosphere to a reagent well.

Since it should have been clear that Shartle does not anticipate the Applicant's invention as now claimed and since the previous amendment already contained elements that distinguished Shartle, the Examiner is asked to reconsider and to withdraw the rejection. If withdrawn, then it would be appropriate to review the remaining rejection based on McNally in view of Kellogg. That rejection also should be withdrawn and the application allowed, including the amendments of July 5.

The Examiner is invited to contact the Applicant's attorney for discussion of the above request for reconsideration.

8/24/07
Date

Respectfully submitted,



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